

Minutes
Air Pollution Control Board
Indiana Government Center South
Conference Room C
402 West Washington Street
Indianapolis, Indiana

December 3, 2003
1:00 p.m.

1. Mr. John Walker, Chairman, called the meeting to order.
He noted that a quorum was present.

CALL TO ORDER
QUORUM

2. Chairman Walker introduced the board members.

INTRODUCTION OF
MEMBERS

Present: Mr. John Walker, Chairman
Mr. Thomas Anderson
Mr. David Benshoof
Mr. John Bacone, Proxy, Department of Natural Resources
Mr. Howard Cundiff, Proxy, State Department of Health
Ms. Pamela Fisher, Proxy, Lt. Governor
Mr. Marlow Harmon
Mr. Chris Horn
Dr. James Miner
Mr. Randy Staley
Dr. Phil Stevens

Also present were Mr. Timothy Method, Deputy Commissioner, Ms. Janet McCabe, Assistant Commissioner, and Ms. Kathy Watson, Air Programs Branch Chief. Others present are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Mr. Method informed the board that the following bills that were scheduled to be introduced to the general assembly:

REPORTS

open burning of leaves during the fall in non-attainment counties; the establishment of an air emission credit registry to facilitate trading in non-attainment areas. Other areas include brownfields, by providing further incentives for brownfields, either through tax credits, or liability issues, as well as waste tires. Mr. Method stated that the end of this legislative session is March 14, 2004.

Ms. McCabe gave an update of possible designations of new ozone non-attainment areas and fine particle non-attainment areas. She stated that EPA is under court order to issue the designations on the 8-hour ozone standard by April 15, 2004. The Clean Air Act requires that

they have at least a 120-day consultation period with the states before issuing those final designations. The consultation period started December 15, 2003.

Ms. McCabe also gave an overview of the Indiana Ozone Summary for 2003.

Ms. Watson reported on current and upcoming rulemakings. Ms. Watson also updated the board on the annual summary of state implementation plan actions approved by U.S. EPA.

Mr. Paul Dubenetzky, Section Chief, Permits Branch, presented the annual permits report to the board members. Eighty sources received Title V permits; 40 first-time Title V permits were issued in the last fiscal year.

4. Chairman Walker introduced the June 4, 2003, Air Pollution Control Board minutes. **MINUTES**

Mr. Horn moved to adopt the June 4, 2003, Air Pollution Control Board's Minutes. Mr. Benshoof seconded. The motion passed unanimously.

Chairman Walker introduced the September 4, 2003, Air Pollution Control Board minutes.

Mr. Anderson moved to adopt the September 4, 2003, Air Pollution Control Board's Minutes. Mr. Harmon seconded. The motion passed unanimously.

5. Chairman Walker introduced Exhibit 1-A, the rule as preliminarily adopted and proposed for final adoption with IDEM's suggested changes incorporated, and Exhibit 1-B, the rule as preliminarily adopted, into the record of the hearing. **PUBLIC HEARING FOR FINAL ADOPTION OF AMENDMENTS TO RULE 326 IAC 2-6, concerning Emission Reporting**
- Ms. Watson informed the board members that this rule had been preliminarily adopted on April 12, 2001. During the fall of 2001 the Environmental Quality Service Council recommended an additional work group process for the rulemaking to consider what the needs of the State were with respect to hazardous air pollutant emission reporting and the costs of regular HAP reporting, which was one of the primary issues at the time of preliminary adoption. Work group meetings were held from January to April, 2002. Also in the spring of 2002, the Legislature passed Senate Enrolled Act 259. In November, 2002, IDEM published a 5-year HAP strategy report as required by the legislation and then presented the report to the EQSC. At the EQSC's request, the rule was re-presented to EQSC prior to being brought before the board for final adoption in 2003.

The emission reporting rule has been in place since 1993 and is part of the state implementation plan. The rule was originally required by U.S. EPA for ozone planning purposes; however, the state rule has always been a broader rule than just for that purpose and includes annual

reporting of criteria pollutants by major sources. The rulemaking was initiated to improve the consistency of the rule with Title V requirements, make it consistent with the federal reporting rule and solicit comment on hazardous air pollutant reporting. Ms. Watson reported that in the final rule HAP reporting is limited to requests by IDEM, there is revised applicability to ensure consistency with the federal rule, the FESOP sources are removed from the regular reporting requirement, and there is revised certification language to require certification of the emission statement by a responsible official.

Mr. Patrick Bennett, Indiana Manufacturers Association, asked the board to adopt the rule as it was presented at the meeting.

Mr. Bernie Paul, Eli Lilly, offered support of the rulemaking. He requested that the “certifying individual” be able to sign off on the emissions statement as opposed to “a responsible official” and that the rule be final adopted with this change.

Mr. Horn moved to adopt the amendments proposed by IDEM in Exhibit 1-A to rule 326 IAC 2-6 as preliminarily adopted. Mr. Cundiff seconded. The motion passed unanimously.

Mr. Anderson moved to final adopt rule 326 IAC 2-6 as amended. Mr. Benshoof seconded. The motion passed 11 - 0.

6. Chairman Walker introduced Exhibit 2, the rule as preliminarily adopted and proposed for final adoption, into the record of the hearing.

Ms. Chris Pedersen, rulewriter, informed the board that this rulemaking concerned needed corrections that were identified by U.S. EPA in the January 15, 2003, Federal Register. U.S. EPA approved rules submitted as revisions to the SIP for the PSD provisions for attainment areas conditional upon correction of the deficiency identified in the Federal Register within one year. The deficiency was an inadvertent omission in the definition of major modification. U.S. EPA also identified some minor typographical errors in the rules. These corrections did not constitute approvability issues; however, IDEM agreed to address them. The proposed rule before the board is the same as the rule that was preliminarily adopted in September, 2003. There were no commentors at the first hearing, and no changes had been made to the proposed rule since that time. Ms. Pedersen asked the board to adopt the proposed rule.

**PUBLIC HEARING
FOR FINAL
ADOPTION OF
AMENDMENTS TO
RULES 326 IAC 2-2-
1, 326 IAC 2-2-6 and
326 IAC 2-2-12
concerning corrections
to Prevention of
Significant
Deterioration (PSD)**

Mr. Benshoof moved to final adopt rules 326 IAC 2-2-1, 326 IAC 2-2-6 and 326 IAC 2-2-12 as proposed. Mr. Horn seconded. The motion passed 11-0.

7. Chairman Walker introduced Exhibit 3, the draft rule, into the record of the hearing.

Ms. Pat Troth, Section Chief, Rules Section, stated that the draft rule concerns the readoption of 326 IAC 2-10, Indiana's Permit by Rule. This rule was first adopted by the board in 1996. This rule is a mechanism to permit small sources that limit their actual emissions to below major source levels and that do not have a control device as an integral part of their process. The rule is subject to 326 IAC 14-9.5, expiration and readoption of administrative rules, or the Sunset Statute. The Sunset Statute provides that all rules adopted after December 31, 1995, expire on January 1st of the seventh year after the year in which the rule takes effect. No comments were received during the first or second comment period. Therefore, the draft rule before the board includes no substantive amendments. The only amendments are updates in Sections 2 and 6 to include new citations to the Indiana Code that became effective in 1996 after this rule was initially adopted. Ms. Troth asked the board to preliminarily adopt the draft rule as presented.

**PUBLIC HEARING
FOR PRELIMINARY
ADOPTION OF
AMENDMENTS TO
RULES 326 IAC 2-10-
2 and 326 IAC 2-10-6,
and readoption of 326
IAC 2-10-1, 326 IAC 2-
10-3, 326 IAC 2-10-4,
and 326 IAC 2-10-5
concerning Permit by**

Dr. Miner moved to preliminarily adopt the amendments to rules 326 IAC 2-10-2 and 326 IAC 2-10-6, and readoption of 326 IAC 2-10-1, 326 IAC 2-10-3, 326 IAC 2-10-4, and 326 IAC 2-10-5. Mr. Harmon seconded. The motion passed unanimously.

8. Ms. McCabe informed the board that state law requires that documents used to conduct public business should be available to the public and that includes documents that IDEM generates as well as documents that are submitted to IDEM by whomever. Ms. McCabe stated that there are some exceptions in the state law regarding what needs to be available to the public. This non-rule policy addresses the trade secret exception. Ms. McCabe said that the non-rule policy recognizes that public access to information is very important, that legitimate trade secrets also need to be protected, but that information that is necessary for either the department or the public to understand and determine what is being emitted by a facility and whether that facility is in compliance with its permit limitations and emissions limitations must be available to the public.

**NONRULE POLICY
DOCUMENT Air-031-
NPD Emission Data**

9. Ms. Stacey Pfeffer, Permits Branch, gave a status report on the New Source Review (NSR) Reform rule. She stated that this rule would adopt the December 31, 2002, federal rule revisions. Ms. Pfeffer informed the board that the rulemaking would add four new elements to the major NSR permitting program. This rulemaking would streamline the regulatory

**NEW SOURCE
REVIEW (NSR)
REFORM RULE
Status Update**

process and allow industries more flexibility to make timely changes to respond to market demands. The four new elements are: a new applicability test to determine if major NSR permitting applies to modifications of existing sources; a clean unit designation which allows well controlled sources to make changes without going through major NSR permitting as long as the change is consistent with the physical and operational characteristics; a new actual plant-wide applicability limitation commonly referred to as a PAL; and the pollution control project exclusion.

Ms. Pfeffer informed that board that the rulemaking would be presented to the board for preliminary adoption at the next board meeting which is scheduled for January 7, 2004.

10. The next meeting was tentatively scheduled for Wednesday, January 7, 2004, at 1:00 p.m, Indiana Government Center South, Indianapolis, Indiana in Conference Room A.

NEXT MEETING

11. Mr. Benshoof moved to adjourn the meeting. Mr. Harmon seconded. The vote was unanimous. Chairman Walker adjourned the meeting at 3:16 p.m.

ADJOURNMENT

John Walker, Chairman

These minutes were taken from the December 3, 2003, transcript, and were written on February 6, 2004, by Karol T. Chuma, Office of Air Quality.